

# State Records Committee Meeting

Division of Archives, Courtyard Meeting Room

April 11, 2013

Salt Lake City, Utah

SRC APPROVED

Date May 9, 2013

Members Present: Lex Hemphill, Media Representative  
David Fleming, Private Sector Records Manager  
Doug Misner, History Representative  
Patricia Smith-Mansfield, Governor's Designee  
Ernest Rowley, Elected Official Representative

Legal Counsel: Paul Tonks, Attorney General's Office

Executive Secretary: Janell Tuttle, Utah State Archives

Others Attending: Rebekkah Shaw, Utah State Archives  
Rosemary Cundiff, Utah State Archives  
Jason Knight, Utah State Archives  
Cynthia Rowley, public

## Call to order: 9:29 a.m. by Lex Hemphill, Chair

Lex Hemphill called the meeting to order and welcomed Janell Tuttle, who was filling in for Susan Mumford as executive secretary for the committee during the April and May State Records Committee meetings.

## Legislative updates and responses

Ms. Smith-Mansfield distributed a handout which divided the bills passed by the Utah State Legislature into three categories; bills that directly affect the State Records Committee, bills that directly affect GRAMA, and bills that indirectly affect GRAMA. The handout is attached. She explained that SB0077S02 requires public meeting minutes and audio recordings of meetings to be posted to the Public Notice Website. She stated that there would eventually be an upgrade to the audio system at the Archives so meetings could stream live to the public. She spoke about SB0094 which replaces the state auditor's representative to the State Records Committee with a citizen representative. SB0283 expands the role of the Transparency Board and includes a member of the State Records Committee. Ms. Smith-Mansfield then explained the bills that affect GRAMA, including SB0012 which modifies the Public Transit District Act to make customer information private. HJR020 is a Master Study Resolution that will examine GRAMA related topics. Ms. Smith-Mansfield also spoke about the bills that indirectly affect GRAMA, including HB0408, Criminal Suspect Photographs.

Ms. Smith-Mansfield suggested to the chair that the committee designate a member of the State Records Committee to be part of the Transparency Board. She also suggested the State Records Committee make a suggestion to the Governor for the citizen representative that replaces the

Auditor's designee. There was some discussion about the Transparency Board. Ernest Rowley was concerned about what type of information would be available on the transparency website. Ms. Smith-Mansfield explained that there were two local government representatives on the Transparency Board and that the Board had 12-14 members. Ms. Smith-Mansfield will be the State Archives representative on the Transparency Board. Lex Hemphill asked for a motion as to who would represent the State Records Committee on the Transparency Board. Ms. Smith-Mansfield moved that the State Records Committee ask Holly Richardson to be the State Records Committee Board member for the Transparency Board. David Fleming seconded the motion. The motion passed unanimously. Ms. Smith-Mansfield then moved to have Lex Hemphill be the second option if Holly Richardson declined to be the Committee representative for the Transparency Board. Ernest Rowley seconded the motion and it passed unanimously. Lex Hemphill added to the legislative update that Salt Lake City recently approved a new ordinance changing their records law. Previously they had a city appeals board and the new ordinance dissolved the appeals board and Salt Lake City now follows the appeals procedure outlined in GRAMA.

### **Retention Schedules**

Jason Knight, the records analyst for state government agencies and higher education, presented the following retention schedules for approval.

- Series 28168, Labor Commission. Division of Occupational Safety and Health. Compliance inspection reports
- Series 28208, Department of Human Services. Office of Social Services. Developmental Center. Clinic summary reports
- Series 28209, Department of Human Services. Office of Social Services. Developmental Center. Nurses notes
- Series 59998, Department of Human Services. Office of Social Services. Developmental Center. X-ray report files
- Series 27772, Department of Environmental Quality. Division of Air Quality. X-ray fluorescence and dosimeter reports
- Series 27280, Department of Environmental Quality. Division of Environmental Response and Remediation. Decontamination specialist certification program files
- Series 14785, Labor Commission. Contested attorney case files
- Series 28169, Labor Commission. Division of Occupational Safety and Health. Consultation case files.
- Series 28243, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Biennial report forms.
- Series 28244, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Draft enforcement confidential documents
- Series 28238, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Facility documents – historical records.
- Series 28239, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Facility documents – non-historical records
- Series 7762, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Financial assurance documents
- Series 28235, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Hazardous waste manifests

- Series 28240, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Non-facility records – historical records
- Series 28241, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Non-facility records – non-historical records
- Series 28237, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. United State Environmental Protection Agency documents
- Series 28236, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Used oil collection center log sheets
- Series 28206, Department of Public Safety, Utah Highway Patrol. Section #6. Incident case files
- Series 28171, Department of Natural Resources. Division of Wildlife Resources. Internet refund forms

Ms. Smith-Mansfield moved not to approve the following series:

- Series 14785 Labor Commission. Contested attorney case files
- Series 23238 Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Facility documents – historical records
- Series 28235 Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Hazardous waste manifests
- Series 28240, Department of Environmental Quality. Division of Solid and Hazardous Waste Management. Non-facility records – historical records

The committee discussed how these series needed further clarification from the agencies. David Fleming seconded the motion and it passed unanimously.

David Fleming moved to approve series 28171, Department of Natural Resources, Division of Wildlife Resources. Internet refund forms with the recommendation to remove “internet” from the series title. Ms. Smith-Mansfield seconded the motion and it passed unanimously.

A motion to approve the remaining series which included series 28168, 28169, 28208, 28209, 59998, 27772, 27280, 28243, 28244, 28239, 7762, 28241, 28237, 28236, 28206 was made by Ernest Rowley and David Fleming seconded the motion. The motion passed unanimously.

### **Approval of the February 14 Meeting**

David Fleming moved to approve the minutes from the February 14, 2013 State Records Committee meeting. Doug Misner seconded the motion and it passed unanimously.

### **Administrative Rules**

Ms. Smith-Mansfield spoke about changing the administrative rules to state that the order would be completed within 7 days. She also spoke about adding language about the need for the audio recordings to be posted to the Utah Public Notice website. Ms. Smith-Mansfield moved to approve the changes to the administrative rule, Ernest Rowley seconded, and the motion passed unanimously.

### **Appeals received**

Janell Tuttle reported that there was one hearing scheduled for May.

**Cases in District Court**

Mr. Tonks reported on cases in District Court. See attached report.

**Next meeting scheduled**

The date of the next State Records Committee meeting is May 9, 2013. The meeting was adjourned by acclamation.

**Adjournment 12:00 p.m.**

**STATE RECORDS COMMITTEE**  
**April 11, 2013**

**State Archives Building, Courtyard Meeting Room**  
**346 S. Rio Grande (450 West)**  
**Salt Lake City**

**AGENDA**  
Call to Order 9:30 a.m.

**BUSINESS**

Approval of February 14, SRC Minutes, action item.

Legislative updates and responses, action item

Approval of retention schedules, action item

SRC appeals received

Cases in District Court

Other Business

**ADJOURNMENT**

Next meeting tentatively scheduled for May 9, 2013

**SRC Appeals Received  
April 2013**

1. **13-01 Albert Cramer vs. Board of Pardons.** Mr. Cramer requested information about why Board of Pardons records are protected and how he can get a response from requests for records from the legislature and the courts. Not an appeal to the SRC.
2. **13-02 Louis Malek vs. Utah Department of Corrections.** Mr. Malek requested his housing locations at the prison for an extended period of time. Appeal incomplete.
3. **13-03 William Strong vs. Eccles Health Sciences Library, University of Utah.** Mr. Strong requested records related to transactions between the library and a corporation called Amedica. And any use of the library's document delivery service by Amedica. The library responded that no records could be found responsive to the request. Issue Resolved and the scheduled hearing was canceled.
4. **13-04 Kerry Smith vs. Human Services Division of Child and Family Services (DCFS).** Mr. Kerry requested the ability to make revisions in what he considered to be false statements in reports in a DCFS case file. He received unredacted reports after appealing to the CAO of DCFS and did not pursue the appeal. Appeal incomplete.
5. **13-05 Matt Killough vs Utah Department of Corrections.** Mr. Killough requested reports of a surgical procedure performed on him during which he said his blood and the blood of a surgical assistant came in contact. Appeal incomplete.
6. **13-06 Matt Killough vs. Board of Pardons and Parole.** Mr. Killough requested parole board decisions for a large span of time. I sent him specific forms that the Board required to be used when requesting records. Appeal incomplete.
7. **13-07 Harshad Desai vs. Utah State Tax Commission.** Mr. Desai appealed the denial of business in Garfield County that had been audited. His appeal to the SRC is untimely and a hearing is denied.
8. **Eric S. Peterson, City Weekly vs. Prison Relocation and Development Authority, Division of Facilities Construction Management.** Mr. Peterson is appealing the denial of a list of groups who submitted RFIs for the relocation of the prison, cost estimates for the relocation, and an analysis of operational savings in a new prison. Scheduled for May.

## **April 2013 Records Committee Case Updates**

### **District Court Cases**

**Utah Transit Authority v. Janelle Stecklein**, 3<sup>rd</sup> District, Salt Lake County, Judge Kelly, Case No. 120908696, filed December 21, 2012.

**Current Disposition:** Answer to complaint filed on January 7, 2013 and answer filed by Stecklein/Salt Lake Tribune on February 4, 2013.

**Granite School Dist. v. Salt Lake Tribune**, 3<sup>rd</sup> District, Salt Lake County, Judge Kelly, Case No. 120907897, filed November 26, 2012.

**Current Disposition:** Hearing held on April 10, 2013. Judge Kelly granted Salt Lake Tribune's motion to dismiss based upon Granite School District's untimely filed appeal with District Court. Complaint was filed on the 35<sup>th</sup> day after the date of the Commission's order, and the court found that it did not have jurisdiction to hear the appeal based upon the language of Utah Code § 63G-2-404.

**Lawrence v. Dept. of Public Safety**, 3<sup>rd</sup> District, Salt Lake County, Case No. 120907748, Judge Dever, filed November 19, 2012.

**Current Disposition:** Hearing held on April 10, 2013. Arguments made by both sides regarding cross motions for summary judgment. Judge Dever took matter under advisement and will issue ruling.

**Utah Dept. of Workforce Services v. Guberev**, 3<sup>rd</sup> District, Salt Lake County, Case No. 120907203, Judge Faust, filed October 23, 2012.

**Current Disposition:** Petition for review filed by DWS. Answer filed on behalf of the State Records Committee on November 19, 2012.

**Salt Lake City Corp. v. Mark Haik**, 3<sup>rd</sup> District, Salt Lake County, Case No. 120905667, Judge Kelly, filed August 21, 2012.

**Current Disposition:** Summary Judgment granted in favor of Salt Lake City Corp. Court found that it had jurisdiction to hear appeal filed by Salt Lake City Corp. from a decision by its appeals board, holding that a governmental entity with appeal procedures set up pursuant to Utah Code § 63G-2-701 still get a right to an appeal to district court similar to an appeal from the State Records Committee. Court granted Motion to Dismiss the Committee since it was not a party to the proceedings below. An appeal has been filed with the Utah Court of Appeals by Mr. Haik.

**Utah Dept. of Human Services v. Wilson**, 3<sup>rd</sup> District, Salt Lake County, Case No. 120903186, Judge Kelly, filed May 10, 2012.

**Current Disposition:** Motion for Summary Judgment filed on February 21, 2013 by Dept. of Human Services.

**Salt Lake City v. Jordan River Restoration Network**, 3<sup>rd</sup> Judicial District, Salt Lake County, Case No. 100910873, Judge Stone, filed June 18, 2010.

**Current Disposition:** Show Cause hearing held on March 18, 2013. Jordan River has new counsel and new Show Cause hearing scheduled for June 3, 2013 to demonstrate that Jordan River is able to go forward on the case.

### **Appellate Court Cases**

**Attorney General Office. v. Schroeder**, 3<sup>rd</sup> District, Salt Lake County, Case No. 110917703, Judge Kelly, filed Sept. 20, 2011.

**Current Disposition:** Trial held on October 19, 2012. Appeal filed by Schroeder requesting matter to be heard by the Utah Supreme Court. AG counsel has been assigned to represent the AG's office, Paul Tonks assigned to represent the Committee.

Records Series for Approval by the State Records Committee, April 2013 Meeting:

Summary of series.

28168: Compliance inspection reports. Labor Commission. Occupational Safety and Health. Compliance Review. **The agency has been storing these records together with the records under series 28169. They belong to two different sections within the division. While the record descriptions are very similar, these records differ by their origination. These records contain documentation specific to inspections carried out at facilities. The sister series, 28169, are preventative measures to educate facilities. Retention is 10 years for both series.**

28208: Clinic summary records. Human Services. Social Services. Developmental Center. **The next three series are changes being made by the Developmental Center in the way they retain records. They are trying to be more organized in what they do and don't keep. These are admittance records with information that may not be needed for the patient's permanent file. These files become outdated once the patient's official file is created which duplicates a lot of this information (series 59944) which is permanent.**

28209: Nurses notes. Human Services. Social Services. Developmental Center. **These records are similar in importance to series 28208. Much of the information generated for these files are notes not historical/critical to the care of the patient with any pertinent information duplicated or placed into the patient's file for permanent storage.**

59998: X-ray report files. Human Services. Social Services. Developmental Center. **This is a current record series with a 1 year retention, then transfer to patient file. These become duplicates because each x-ray has two copies with one of these copies going into the patient file immediately. The agency would like to destroy these duplicate copies after 10 years instead of retain these duplicates in the same place as the originals, permanently.**

27772: X-ray fluorescence and dosimeter reports. Environmental Quality. Air Quality. **This series was rejected back in December based on a rule written for Labor Commission OSHA. This is not Labor Commission and the XRF analyzers in question emit radiation in levels so low that there is no legal requirement requiring reports for these types of lead based paint analyzers. The reports are used mainly for compiling trend data to see if the machines gradually emit more radiation than they should. These are precautionary administrative reports.**

27280: Decontamination specialist certification program files. Environmental Quality. Response and Remediation. **This series has been in use for 3.5 years but was never officially approved. They came to me to change the retention from 3-5 years and that's when the error was found. ☺ They have been keeping the citizenship verification separate for 5 years, but would like to combine them into this series and increase the retention from 3 to 5 years.**

This is primarily for conformity and ease of the agency to maintain these records in one place instead of two.

14785: Contested attorney case files. Labor Commission. **This series has been in use since 1995 but was never approved. The series contains mostly working files specific to cases brought by the Labor Commission against companies not in compliance with state/federal laws. Any information pertinent to the actual court case is duplicated under series 82227 which has a 75 year approved retention.**

28169: Consultation case files. Labor Commission. Occupational Safety and Health, Education and Consultation. **This is the sister to series 28168 previously discussed. Again, the agency has been storing these records together with the records under series 28168. They belong to two different sections within the division. While the record descriptions are very similar, these records differ by their origination. These records contain documentation specific to consultations carried out at or with the facilities for education purposes. These records document preventative steps taken to education facilities. Retention is 10 years for both series.**

28243: Biennial report forms. Environmental Quality. Solid and Hazardous Waste Management. **The next 10 series are for the HAZMAT division at Environmental Quality. They are trying to become more organized in their records management and would like to use approved retention schedules as a means to do that. This series contains data that is gathered by the agency and then reported to the EPA every odd numbered year. Once the information has been gathered and sent to the EPA, the agency doesn't need to retain the information beyond its own administrative and reference needs which it has requested 5 years for.**

28244: Draft enforcement confidential documents. Environmental Quality. Solid and Hazardous Waste Management. **These are records created during the draft stage of violation notices for facilities/individuals in non-compliance. The final notice and information specific to the notice are made public once the violator has been notified. These records are protected as they may jeopardize the citation process. All information pertinent to the final citation is transferred to a different series with a long retention schedule.**

28238: Facility documents – historical records. Environmental Quality. Solid and Hazardous Waste Management. **These records document involve regulation and management of HAZMAT facilities and contain information of historical value for the state. Most of the historical value is due to the environmental impact documented in these records.**

28239: Facility documents – non-historical records. Environmental Quality. Solid and Hazardous Waste Management. **These records are used to compile and record the historical records kept in series 28238. They include transitory information used for routine regulation and management of HAZMAT facilities. These records include a lot of data gathered that is**

then compiled into records like annual reports or other permanent-in-nature documents. Records have no historical impact on the environment.

7762: Financial assurance documents. Environmental Quality. Solid and Hazardous Waste Management. **This is an existing series. They want to change retention from 3 to 5 years. The agency feels that the records are useful for additional reference/consultation and would like 2 more years.**

28235: Hazardous waste manifests. Environmental Quality. Solid and Hazardous Waste Management. **These records are copies of the originals. As in the description, the originals are housed in the facility as required by Utah's Administrative Code. I fixed a typo in the description. This series has been reviewed by the State Auditor representative. His only question was confirming that these records are duplicates with the record copy housed elsewhere. I am waiting for him to get the signed form back to me.**

28240: Non-facility documents – historical records. Environmental Quality. Solid and Hazardous Waste Management. **These records, unlike the facility historical documents, are one-time events not specific to an entity or facility. They hold historical significance for occurrences involving hazardous materials throughout the state. Most of the historical value is due to the environmental impact documented in these records.**

28241: Non-facility documents – non-historical records. Environmental Quality. Solid and Hazardous Waste Management. **This series contains records primarily created from various types of information/data requests and other transitory documentation used for routine business specific to small businesses. Records have no historical impact on the environment.**

28237: United State Environmental Protection Agency documents. Environmental Quality. Solid and Hazardous Waste Management. **These records are primarily transitory working correspondence documenting non-historical information specific to the relationship between the EPA and the Department of Environmental Quality. Any historical documents are kept under series 28238.**

28236: Used oil collection center log sheets. Environmental Quality. Solid and Hazardous Waste Management. **These logs are compiled quarterly and sent to the Tax Commission. At that point, the information held by Environmental Quality has been duplicated and no longer needs to be kept by DEQ. This series has been reviewed by the State Auditor representative. His only question was confirming that these records are duplicates with the record copy housed elsewhere. I am waiting for him to get the signed form back to me.**

28206: Incident case files. Public Safety. Highway Patrol. Section #6. **This series is common among the Highway Patrol sections throughout the state. Other sections keep these records under approved retention schedules ranging from 7-15 years with some keeping them**

much longer. The agency would like to keep the records for 10 years. I have recommended to Rebekkah that we work on creating general schedules to fit the needs of the Utah Highway Patrol to increase uniformity throughout the sections statewide.

28171: Internet refund forms. Natural Resources, Wildlife Resources. These records contain the forms completed by individuals in order to receive a refund from Wildlife Resources for a number of reasons. Refunds/claims are resolved quickly with no need to retain the records longer than 2 years. Keep in mind that these are simply the forms completed to receive a refund and NOT documentation of the refund itself, thus no fiscal review is needed because there is no fiscal appraisal.

Bill	Short Title	Content
<b>SRC</b>		
SB0077S02	Availability of Government Information	Public meeting minutes and audio required to be posted on the Public Notice Website.
SB0094	Government Records Amendments	Requires a portal where Legislators may post their public email, clarifies initiative and referendum packets as public, removes state auditor's representative from SRC and replaces with citizen representative.
SB0283	Availability of Public Information Amendments	Expands the role of the Transparency Board to study making public information more readily accessible through a website; includes a member of the SRC.
<b>GRAMA</b>		
HB0106S03	Medicaid Inspector General Amendments	Changes cross reference in GRAMA for new section of Office.
HB0134S03	Parental Notification Related to Student Safety	Requires parental notification of certain safety threats to a parent's student and that this information is a private record under GRAMA.
HB0306	School Land Trust Program Amendments	Changes cross reference in public information in GRAMA for SITLA.
HB0317S01	Protection of Concealed Firearm Permit Information	Notwithstanding Section 63G-2-206, a person may not share any of the information with any office, department, division, or other agency of the federal government unless except in specifically outlined situations (defined in Utah Code 53-5-708); such disclosure is a class A misdemeanor under GRAMA.
HJR020	Master Study Resolution	Includes several GRAMA related issues, including fees and birth date as private information on list.
SB0012	Public Transit District Customer Information	Modifies the Public Transit District Act and the Government Records Access and Management Act by

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HJR020	Master Study Resolution	Includes several GRAMA related issues, including fees and birth date as private information on list.
SB0012	Public Transit District Customer Information	Modifies the Public Transit District Act and the Government Records Access and Management Act by

amending provisions relating to public transit district customer information, classifying information as private under GRAMA.

SB0086 Independent Executive Branch Ethics Commission

Establishes the Independent Executive Branch Ethics Commission and certain records as private records under GRAMA; changes cross references.

SB0190S03 Procurement Revisions

Provides that RFI information is a protected record under GRAMA until the final contract or two years after decision not to award contract.

SB0196S03 License Plate Reader Amendments

Provides that captured plate data is a protected record under GRAMA, if the captured plate data is maintained by a governmental entity.

#### Others not GRAMA

HB0026 Inmate Medical Donation Act

Utah Department of Corrections to provide a document of gift form for an anatomical gift; to maintain a record of gift determination; and to release to an organ procurement organization the names of all inmates who indicate they intend to make an anatomical gift—  
notwithstanding GRAMA.

HB0127S01 Motor Vehicle Event Data Recorders

Event data that is recorded on an event data recorder is the personal information of the motor vehicle's owner [not GRAMA].

HB0408 Criminal Suspect Photographs

County sheriffs cannot provide a copy of a booking photograph to a person if the photograph will be placed in a publication or posted on a website that requires a payment in order to remove the photograph; requires a person requesting a copy of a booking photograph to sign a statement that the photograph will not be placed in a publication or on a website that requires payment for removal [not GRAMA].